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9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2021-0219]

RIN 1625-AA00

Safety Zone; Seagull Bridge, Quinnipiac River, Hamden, CT

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters within a 25-yard radius of any foundation, support, stanchion, pier or abutment of the Seagull Bridge located on the Quinnipiac River, Hamden, CT. The safety zone is needed to protect personnel and property from potential hazards created by falling debris. Vessels or persons are prohibited from entering the zone unless specifically authorized by the Captain of the Port Long Island Sound or a designated representative.

DATES: This temporary interim rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through September 30, 2021. For the purposes of enforcement, actual notice will be used from April 29, 2021, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2021-0219 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0219 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this temporary interim rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary interim rule, call or email Lieutenant Jennifer L. Sheehy, Waterways Management Chief , U.S. Coast Guard; telephone 203-468-4432, email Jennifer.L.Sheehy@uscg.mil.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

The Coast Guard views public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this

document to which each comment applies, and provide a reason for each suggestion or recommendation. Your comment can help us amend this regulation so that it provides a better solution to the problem we seek to address. We may issue a temporary final rule or other appropriate document in response to your comments.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this temporary interim rule for alternate instructions. Documents mentioned in this temporary interim rule as being available in the docket, and all public comments, will be available in our online docket at <https://www.regulations.gov>, and can be viewed by following that website's instructions. We review all comments received, but we will only post comments that address the topic of the temporary interim rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. If you visit the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

We do not plan to hold a public meeting but we will consider doing so if we determine from public comments that a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Long Island Sound

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

III. Background Information and Regulatory History

This rulemaking establishes a temporary safety zone for the waters around the Seagull Bridge, Quinnipiac River, Hamden, CT. On April 1, 2021, the Coast Guard received notice of debris falling from the Seagull Bridge and that the bridge is displaying signs of failure; thus creating a hazardous situation. As a temporary interim rule, this will allow the Coast Guard to expeditiously establish a safety zone, while also providing time to complete a structural analysis of the Seagull Bridge.

If we determine that changes to the temporary interim rule are necessary, the Coast Guard will publish a temporary final rule or other appropriate document.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this temporary interim rule because doing so would be impracticable and contrary to the public interest. Publishing an NPRM and delaying the effective date of this rule to await public comment is contrary to the safety zone’s intended objective, since immediate action is needed to protect persons and property from the potential falling debris from the Seagull Bridge.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary interim rule effective less than 30 days after publication in the **Federal Register**. Due to the need for immediate action, the restriction of vessel traffic is

necessary to protect life, property, and the environment. Therefore, a 30-day notice is impracticable. Delaying the effective date of this temporary interim rule would be contrary to the public interest because immediate action is needed to protect persons and vessels from the potential safety hazards associated with the Seagull Bridge.

We are soliciting comments on this rulemaking. If the Coast Guard determines that changes to the temporary interim rule are necessary, we will publish a temporary final rule or other appropriate document.

IV. Legal Authority and Need for the Temporary Interim Rule

The Coast Guard is issuing this temporary interim rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Long Island Sound (COTP) has determined that potential hazards associated with falling debris from the bridge structure would be a safety concern for anyone within a 25-yard radius of the Seagull Bridge. This temporary interim rule is needed to protect personnel and property in the navigable waters around the safety zone from the potential safety hazards associated with the Seagull Bridge.

V. Discussion of the Temporary Interim Rule

This temporary interim rule establishes a temporary safety zone from April 29, 2021 through September 30, 2021, or until the safety zone is rescinded. The safety zone will cover all navigable waters 25-yards around the Seagull Bridge located on the Quinnipiac River, Hamden, CT, at 41° 20'09.8" N, 072° 53'19.7" W. The duration of the safety zone is intended to protect personnel and property within these navigable waters. All vessels or persons will be prohibited to enter the safety zone without obtaining permission from the COTP or a designated representative.

VI. Regulatory Analyses

We developed this temporary interim rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a

number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This temporary interim rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this temporary interim rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. This temporary safety zone will temporarily restrict navigation in the 25-yards around the Seagull Bridge from April 29, 2021 through September 30, 2021. This temporary interim rule allows persons or vessels to seek permission to enter the safety zone. Additionally, the Coast Guard will notify the public of the enforcement of this temporary interim rule via appropriate means, such as via Local Notice to Mariners and Broadcast Notice to Mariners to increase public awareness of this safety zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this temporary interim rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the temporary safety zone may be small entities, for the reasons stated in section VI.A above, this

temporary interim rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this temporary interim rule. If the temporary interim rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this temporary interim rule or any policy or action of the Coast Guard.

C. Collection of Information

This temporary interim rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A temporary interim rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this temporary interim rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive

Order 13132.

Also, this temporary interim rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this temporary interim rule will not result in such an expenditure, we do discuss the effects of this temporary interim rule elsewhere in this preamble.

F. Environment

We have analyzed this temporary interim rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This temporary interim rule involves a temporary safety zone lasting until September 30, 2021 that will prohibit entry into 25-yards around the Seagull Bridge. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination will be produced. For instructions on locating the docket,

see the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Accordingly, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

2. Add § 165.T01-0219 to read as follows:

§ 165.T01-0219 Safety Zone; Quinnipiac River, Hamden, CT.

(a) *Location.* The following area is a safety zone: All navigable waters of the Quinnipiac River within a 25-yard radius of any foundation, support, stanchion, pier or abutment of the Seagull Bridge.

(b) *Definition.* As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Long Island Sound (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of

this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP Sector Long Island Sound at 203-468-4401 (Sector Long Island Sound Command Center) or the designated representative via VHF channel 16 to obtain permission to do so. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced until September 30, 2021, or until the COTP determines that the safety zone is no longer necessary.

Dated: April 29, 2021.

EVA VAN CAMP,
CAPT, U.S. Coast Guard,
Captain of the Port Long Island Sound.

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